

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
No. 5:24-cv-578

VIRGINIA WASSERBERG, NORTH)
CAROLINA REPUBLICAN PARTY, and)
REPUBLICAN NATIONAL COMMITTEE,)
Plaintiffs,) DEFENDANTS'
v.) MOTION TO DISMISS
NORTH CAROLINA STATE BOARD OF) PLAINTIFFS' COMPLAINT
ELECTIONS, et al.,) [Fed. R. Civ. P. 12(b)(6)]
Defendants.)

Defendant North Carolina State Board of Elections, et al. (State Board), by and through undersigned counsel, hereby moves the Court to dismiss claims brought against the State Board pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure. In support of this motion, Board Defendants state the following:

1. The State Board's guidance to county boards of election challenged in Plaintiffs' Complaint reflects a correct application of state and federal law. The State Board's interpretation of N.C. Gen. Stat. § 163-231 is the best reading of the statute's text, particularly in the context of other relevant state statutes, and in any event, is the only possible reading of the statute that would not violate the materiality provision of the Civil Rights Act of 1964, 52 U.S.C. § 10101(a)(2)(B).
2. Plaintiffs can prove no set of facts that would entitle them to relief.
3. The Complaint fails to state a claim for relief under any legal theory.
4. Dismissal is appropriate under Fed. R. Civ. P. 12(b)(6).

In support of this motion, the State Board relies on the arguments and authorities contained in the accompanying Memorandum of Law in Support of Defendants' Motion to Dismiss.

Respectfully submitted, this the 16th day of October, 2024.

JOSHUA H. STEIN
ATTORNEY GENERAL

/s/ Laura H. McHenry
Laura H. McHenry
Special Deputy Attorney General
Bar No. 45005
lmchenry@ncdoj.gov

/s/ Mary Carla Babb
Mary Carla Babb
Special Deputy Attorney General
Bar. No. 25731
mcbabb@ncdoj.gov

North Carolina Dept. of Justice
Post Office Box 629
Raleigh, N.C. 27602
Tele No.: (919) 716-6900
Fax No.: (919) 716-6763

Counsel for State Board Defendants